

Ordinances of the Elk Valley Rancheria, California

Last amended: 2002

ORDINANCE NO. 2002-02

(Amended by Elk Valley Rancheria Tribal Council on August 7, 2002)

AN ORDINANCE OF THE TRIBAL COUNCIL OF THE ELK VALLEY RANCHERIA  
REPEALING TEMPORARY ELECTION ORDINANCE NO. 00-015, ELECTION  
ORDINANCE NO. 99-51 AND AN ELECTION ORDINANCE ADOPTED BY RESOLUTION  
NO. 95-30; AND ENACTING A NEW ELECTION ORDINANCE

[Title 20 - Election Ordinance \[Election Code\]](#)

TITLE 20 - ELECTION ORDINANCE

The Tribal Council of the Elk Valley Rancheria does hereby ordain as follows:

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20.01 Findings and Policy: The Tribal Council hereby finds and declares as follows:

(a) Article IX, Section 1 of the Constitution establishes a system of staggered Council Member terms requiring that the five (5) members receiving the highest number of votes in the first Tribal Council Election be elected to four (4) year terms and the remaining four (4) members be elected to (2) year terms.

(b) On December 2, 2000, the Tribe held Tribal Council Elections pursuant to a Temporary Election Ordinance No. 00-15, adopted on October 18, 2000.

(c) Pursuant to Article IX, Section 1 of the Constitution of the Elk Valley Rancheria California ("Constitution") and Section 22 of the Temporary Election Ordinance, five (5) of the Council Members were elected to four (4) year terms and four (4) of the Council Members were elected to two (2) year terms.

(d) Article IX, Section 1 of the Constitution provides that Council members continue to hold office until their successors are elected and installed.

(e) The Tribe needs to conduct Tribal Council Elections in the year 2002 to provide for the Election of four (4) Council Members.

(f) The December 2, 2000, Tribal Council Election was conducted in accordance with the tribe's Temporary Election Ordinance.

(g) The need for a Temporary Election Ordinance arose out of Election challenges and disputed interpretations of the tribe's Election Ordinance No. 99-51 surrounding the Tribal Council Election held on July 29, 2000.

(h) The Tribal Council has determined that it is in the best interests of the Tribe to repeal all prior Tribal Election ordinances and enact one comprehensive Election ordinance for the orderly conduct of all future Tribal Council Elections.

20.02 Authority. This Title is enacted pursuant to Article IX, Section 5 of the Constitution.

20.03 Purpose. This Ordinance is enacted to provide fair and uniform procedures for the conduct of all Tribal Council Elections in accordance with the Constitution.

20.04 Definitions.

20.04.1. "Absentee Day Ballot Box": the locked container into which the entire Absentee Ballot Envelopes are placed (including the ballot, white envelope, and outer manila/brown envelope).

- 20.04.2. "Absentee Day Ballot Envelopes Box": the locked container into which manila/brown outer absentee ballot envelopes are placed during the Counting of the Votes after the Absentee Ballot Envelopes are opened.
- 20.04.3. "Appeals Board": the Election Appeals Board.
- 20.04.4. "Appellant": the person appealing an Election dispute to the Appeals Board or Election Judge.
- 20.04.5. "Ballot Rejection Box": the locked container into which Ballots that have been marked "REJECTED" are placed.
- 20.04.6. "Board": the Tribal Election Board.
- 20.04.7. "Challenged Ballot": a ballot as described in Section 20.10.3.
- 20.04.8. "Constitution": the Constitution of the Elk Valley Rancheria California.
- 20.04.9. "Court System": the Tribal court, inter-tribal court or other court system contracted pursuant to Section 20.12.2 of this Ordinance to hear Election disputes.
- 20.04.10. "Crime Involving Moral Turpitude": an act of baseness or vileness, or depravity in the private and social duties which a man owes to his fellow man or to society in general, contrary to the accepted and customary rule of right and duty; and includes but is not limited to, any felony, and misdemeanors involving theft, fraud, embezzlement, deceit, perjury or dishonesty.
- 20.04.11. "Day" or "Days": unless otherwise specified all "days" referred to in this Ordinance refer to calendar days, not business days.
- 20.04.12. "Election": unless otherwise specified, as used in this Ordinance references to "Election" shall include any Tribal Election.
- 20.04.13. "Election Day Ballot Box": the locked container into which white OFFICIAL BALLOT envelopes are placed on the date of the Election.
- 20.04.14. "Election Day Ballot Envelopes Box": the locked container into which manila/brown outer envelopes are placed on the date of the Election.
- 20.04.15. "Election Judge": The person contracted pursuant to Section 20.12.2 of this Ordinance to hear Election disputes.
- 20.04.16. "Electioneering" soliciting persons to vote for a specific candidate in an Election; campaigning, including the posting of candidate signs and distributing campaign flyers or literature.

20.04.17. "Enrolled Tribal Member or Enrolled Member or Tribal Member": a person meeting the qualifications for membership as set forth in the Constitution and Enrollment Ordinance of the Tribe and who is formally enrolled in the Tribe by resolution of the Tribal Council.

20.04.18. "Gender term": any terms used in the masculine shall be deemed also to include the feminine and any terms used in the feminine shall be deemed also to include the masculine.

20.04.19. "General Election": a General Election is an Election when eligible voters vote among candidates to elect members to the Tribal Council Beginning with the Election held on January 11, 2003, General Elections are held every two years in conformance with the Constitution's requirement for Tribal Council Staggered terms.

20.04.20. "Gross Misconduct": serious or willful transgression of an established and definite rule, commission of a forbidden act, a serious dereliction from duty, engaging in unlawful behavior in one's public or private life (including arrest for any felony or crime involving moral turpitude).

20.04.21 . "Initiative Election": an Election called for the purpose of voting on a legislative measure proposed by the general membership.

20.04.22. "Majority Vote": unless otherwise specified, means more than half of the votes cast by persons legally entitled to vote at a regularly or properly called meeting at which a quorum is present.

20.04.23. "Malconduct": Ill conduct, especially dishonest conduct, any wrongful conduct that affects, interrupts or interferes with the official performance of one's duties; official misconduct in performance of duties.

20.04.24. "Measure": means a proposed or existing legislative act or legislative course of action.

20.04.25. "Neglect of Duty": failure to uphold one's Oath of Office; serious failure to attend to one's official duties.

20.04.26. "Offense Against the Tribe": a violation of Tribal law, including a violation (of this Election Ordinance any federal or state crime involving theft or embezzlement from the Tribe; or any other wrongful act against the Tribe causing the Tribe harm, injury or disrepute.

20.04.27. "Officers of the Tribal Council": the Chairperson, Vice-chairperson, Treasurer and Secretary of the Elk Valley Rancheria Tribal Council.

20.04.28. "Polling Monitor": a person, designated in writing by a candidate in a General Election, who may be present at the polling place throughout the entire day to observe the voting and counting of the votes on Election day.

20.04.29. "Polling Place" or "Polls": means the physical location where Election day ballots are cast.

20.04.30. "Protester": the person filing an initial Election dispute complaint.

20.04.31. "Rancheria": the reservation of the Tribe, the exterior boundaries of which are those recognized in the Order of the United States District Court for the Northern District of California, Case No. C 79-1710SW, entered on December 27, 1983 (the "Tillie Hardwick" decision), and such other lands as may heretofore or hereafter be acquired by or for the Tribe.

20.04.32. "Recall Election": an Election to be held to consider the recall of an elected official.

20.04.33. "Referendum Election": an Election called for the purpose of voting on an existing Tribal ordinance or Legislative measure proposed by the general membership or Tribal Council.

20.04.34. "Run-off Election": an Election that is called in the event of a tie vote among candidates in a General Election. Run-off Elections shall be called and held in accordance with Section 20.09.3 of this Ordinance.

20.04.35. "Special Election": as used in this Ordinance refers to any Election, excluding a General Election and includes a Run-off Election, Recall Election, Referendum Election and Initiative Election.

20.04.36. "Title": refers to this Ordinance.

20.04.37. "Tribe" or "Tribal": of or referring to the Elk Valley Rancheria California, a federally recognized Indian tribe.

20.04.38. "Tribal Council" or "Council": means the duly elected governing body of the Tribe.

#### 20.05 Tribal Election Board.

20.05.1. Establishment. The Tribal Council shall appoint by majority vote through a Tribal Resolution, a Tribal Election Board no later than 120 days prior to a General Election for Tribal Council members and no later than 45 days prior to a Special Election. The Tribal Election Board ("Board") shall have the duties and responsibilities set forth in this Ordinance.

20.05.2. Composition. The Board shall consist of five (5) persons, at least three of whom are Enrolled Tribal Members. The Board shall consist of at least one person with an accounting background, one with a legal or law enforcement background and one with at least five years of business experience. No person may be appointed to the Board who is a candidate for Election, an intended candidate for Election, or a current member of the Tribal Council. Any person who is appointed to the Board and subsequently declares candidacy for the Election that is the subject of the Board's duties shall be deemed disqualified to continue his or her term on the Board. Upon declaring candidacy for office said Board Member shall automatically be removed from the Board, and the Tribal Council shall fill the vacancy by appointment. The Board shall elect by majority vote one of its members as Chairperson of the Board, who must also be an Enrolled Tribal Member. The Council shall fix the compensation, if any, of members of the Board. In the

event of a vacancy on the Board, or if any member is unable to perform their duties, the Council shall fill the vacancy by appointment.

The appointees to the Tribal Gaming Commission may also be appointed as the members of the Board, during their terms as Gaming Commissioners. In the event the Gaming Commissioners are appointed as the members of the Board, they shall separately select from among themselves a Chairperson of the Board, who must also be an Enrolled Tribal Member. All meetings of the Board shall be held and convened separately from any meetings of the Gaming Commission.

20.05.3. Election Board Oath. Before assuming office, each member of the Board shall take an oath in the following form: "I, \_\_\_\_\_ do solemnly swear (or affirm) that I will perform the duties of a member of the Tribal Election Board according to the law and to the best of my ability will endeavor to ensure a fair Election."

20.05.4. Budget. On an annual basis, the Tribal Council shall establish a budget for the Board sufficient for the Board to perform its required duties. The Board may hire their own attorneys in order to obtain legal advice necessary for the conduct of any Election pursuant to this Ordinance, provided however, that any cost for legal services to the Election Board shall be pre-approved by the Tribal Council. The Board may hire a temporary staff person to assist with the daily administrative tasks necessary for the conduct of the Election or the Tribal Council may appoint a Tribal administrative employee to assist the Board in its daily administrative tasks. The Tribal Council shall provide the ( Board with work space for the Board to conduct its duties.

20.05.5. Duties.

(a) *General Supervision.* The Board shall have general supervision over all Tribal Elections, including the staffing at the Tribal polls on the day of the Election, and shall certify~ the results to the Council and by public notice.

(b) *Notices.* The Board shall have the responsibility to mail and post all Election notices, candidacy forms and voter registration forms as required by Section 20.08 of this Ordinance.

(c) *Candidate Eligibility.* The Board shall review all declarations of candidacy to determine whether the candidates meet the eligibility requirements that are set forth in Article IX, Section 2 Qualifications, of the Constitution, and this Ordinance.

(d) *Voter Registration.* The Board shall mail and receive Voter Signature Cards, prepare a voter registration list, consisting of all of the names of Tribal Members who are eligible to vote in the Election, and staff a registration desk to verify eligible Tribal Members on the day of the Election.

(e) *Absentee Ballots.* The Board shall be responsible for the conduct of absentee voting in accordance with the requirements of this Ordinance.

(f) *Conduct of the Election.* The Board shall be responsible for all tasks required for the conduct of the Election pursuant to this Ordinance, including but not limited to: preparing the ballots,

staffing the polling place, maintaining the ballot box, counting the ballots, resolving Election disputes and certifying Election results to the Tribal Council.

20.05.6. Post Office Box. The Board shall establish its own Post Office Box located at the Crescent City, California U.S. Post Office. All correspondence sent by the Board and any self-addressed envelopes mailed by the Board shall include ONLY the Board's Post Office Box address. No mail sent to the Board at the tribe's regular offices shall be accepted or opened by the Tribe. All such mail shall be forwarded, unopened, to the Board's P.O. Box address.

#### 20.06 Qualification of Candidates.

20.06.1. Qualification of Candidates. Each candidate seeking Election to the Tribal Council shall meet all of the following qualifications:

- (a) Be an enrolled member of the Elk Valley Rancheria as defined in Article III of the Constitution.
- (b) Be eighteen (18) years of age or more on or before the date of the Election.
- (c) Not be a person who has been convicted of a crime involving moral turpitude or completed any sentence/probation or parole for a crime involving moral turpitude within the five years preceding the Election.
- (d) Not be a person who has been convicted of or committed an offense against the Tribe or its agents or employees while serving in their official capacities, and now has completed any sentence/probation or parole within the five (5) years preceding the Election.
- (e) Not be a person against whom the Tribe has obtained a civil judgment and the judgment is outstanding or was paid in full within the five (5) years preceding the Election.

20.06.2. Declaration of Candidacy and Filing. Each person eligible for Election to the Tribal Council, pursuant to this Ordinance, may become a candidate by filing a Declaration of Candidacy with the Board no later than sixty (60) days prior to the Election. The person's Declaration of Candidacy must be accompanied by a non-refundable filing fee of \$10.00. The notice of candidacy must conform to the example provided in Appendix A of this Ordinance, and must contain the following minimum information:

- (a) Full name, address, and any other names used by the person in the past or present;
- (b) Tribal enrollment number;
- (c) Date of Birth;
- (d) Social Security Number;

(e) A statement asserting that the person meets the qualifications for candidates as set forth in the Constitution and this Ordinance;

(f) A statement and explanation, if necessary, regarding whether or not the person has ever been convicted of an offense against the Tribe or its agents or employees while such agents or employees were serving in their official capacities;

(g) A statement regarding whether the person has been convicted of a crime of moral turpitude within five (5) years preceding the date of the Election or whether the person has been convicted of a crime of moral turpitude and completed any sentence, probation or parole for the conviction within five (5) years preceding the date of the Election; and

(h) A statement regarding whether the person has ever served in the U.S. military and if so, the nature of the discharge.

20.06.3. Nominating Petitions. The Tribe does not require nominating petitions for its candidates for General Election.

20.06.4. Notice of Candidates. The Board will commission the services of a private investigations firm to perform criminal background checks on all declared candidates. The Tribe will cover the cost of the background checks through the Board budget established pursuant to Section 20.05.04 above. Candidate filing fees shall be applied to the costs of performing the background investigations. The Board will make final eligibility determinations no later than thirty (35) days prior to the date of the Election and will notify the Tribal Council. The Tribal Council may file a written challenge to the Board disputing the eligibility of a candidate, stating the specific reasons therefore, no later than two (2) days after receipt of the Candidate Notification to Tribal Council. The Board shall consider the challenge and make its decision regarding the candidate no later than thirty (30) days prior to the date of the Election. The Board will mail a written Candidate Election Notice to all eligible voters announcing the candidates for the Election no later than thirty (30) days prior to the date of the Election. In addition, no later than thirty (30) days prior to the date of the Election, the Board shall post the names of all candidates at the Tribal Office and at the Tribal Council chambers.

20.06.5. Eligibility of Candidates. If the Board determines that a person does not meet the qualifications of a candidate set forth in 20.06.1 above, the Board shall notify such person in writing that the Board challenges their candidacy, giving the reasons for the challenge and further notifying the person that unless satisfactory proof of eligibility is furnished to the Board within ten (10) days from the date of the notice of ineligibility, the person's declaration of candidacy will be rejected and the person's name not placed on the ballot. If the person fails to respond to the Board's challenge, the Board shall not place the member's name on the Candidate Election Notice and the member shall not be eligible to be a candidate. If the member does respond, the Board shall make a final determination no later than five (5) days after its receipt of the member's response regarding the candidate's eligibility. The Board's decision in determining the eligibility of a candidate shall be final.



## 20.07 Qualification and Registration of Voters.

20.07.1. Eligibility of Voters. Any enrolled member eighteen (18) years or more of age on the date of the Tribal Election, who has registered in accordance with this Ordinance shall be considered a qualified voter of the Tribe.

20.07.2. Voter Registration. A Tribal Member registers to vote by completing and forwarding to the Board a Voter Signature Card in accordance with this Ordinance. A Tribal Member who has completed and delivered a Voter Signature Card to the Board for a previous Tribal Election does not need to register for each Election, unless the Tribal Member has changed his or her address since the last Tribal Election in which he or she voted. It is the responsibility of each Tribal Member to contact the Board and verify his or her registration to vote in an Election. If a Tribal Member changes his or her address, the Tribal Member must re-register with the Board by completing a new Voter Signature Card.

20.07.3. Voter Signature Cards. Every Tribal Member who is eligible to vote in a Tribal Council member Election and who does not otherwise meet the voter registration requirements set forth in 20.07.2 must complete and submit a Voter Signature Card to the Board no later than 10 days prior to the Election. The Voter Signature Card must conform to the example provided in Appendix B of this ordinance, and must contain the following minimum information:

- (a) Printed name, date of birth and mailing address of the Enrolled Member;
- (b) The person's Tribal enrollment number;
- (c) The signature of the Tribal member; and
- (d) Verification of the person's signature by a notary public.

20.07.4. Voter Registration List. The Board shall prepare and certify an alphabetically arranged list of all persons eligible to vote in each Election. Such preparation and certification shall include verification by the Board that all persons on the Voter Registration List have completed a Voter Signature Card in accordance with this Ordinance. The Voter Registration List shall have a place for each voter to sign after his or her name. On the day of the Election, the Board shall staff a registration desk to verify eligible Tribal Members.

20.08 Election Schedule and Notices. For each General Election the Board shall prepare a written Schedule of Important Dates based on the requirements and deadlines set forth in this section. The Tribal Council shall approve the Schedule of Important Dates for each General Election by Tribal Resolution.

20.08.1. General Election Notice. At least ninety (90) days before the date of the General Election, the Board shall forward to all eligible voters a General Election Notice. The General Election Notice must include:

- (a) the date, place and polling hours for the voting;
- (b) a Declaration of Candidacy Form;
- (c) an Absentee Ballot Request Form;
- (d) a Voter Signature Card Form (to be filled out and notarized if ( necessary), along with an explanation of when a Voter Signature Card is required in accordance with this Ordinance;
- (e) a reminder to voters that each voter needs to present personal identification at the polling area on Election day; and
- (f) a Schedule of Important Dates, setting forth the actual dates for forms, notices, the Election, etc. based on the timeframes herein.

20.08.2. Declaration of Candidacy Form. All Declaration of Candidacy Forms must be filed with the Board no later than sixty (60) days prior to the date of the Election.

20.08.3. Candidate Notification to Tribal Council. The Board shall file a Candidate Notification with the Tribal Council no later than thirty-five (35) days prior to the date of the Election. This notice shall identify to the Tribal Council all persons that the Board has determined are eligible as candidates for the upcoming Election.

20.08.4. Candidate Election Notice. No later than thirty (30) days prior to the date of the Election, the Board shall prepare and mail to all eligible voters a Candidate Election Notice advising all eligible voters of the persons eligible as candidates for the upcoming Election. This notice also shall include a reminder to voters to complete, notarize and forward their voter signature cards to the Board by the applicable deadline. In addition, the Board shall post the Candidate Election Notice at the Tribal Office and Tribal Council Chambers within this timeframe.

20.08.5. Absentee Ballot Request Forms. All Absentee Ballot Request Forms must be received by the Board no later than thirty (30) days prior to the date of the Election.

20.08.6. Absentee Ballots. The Board shall mail, via registered mail, absentee ballots along with absentee ballot instructions to all those requesting absentee ballots no later than twenty-three (23) days prior to the date of the Election.

20.08.7. Receipt of Voter Signature Cards. If necessary (i.e., no prior Voter Registration Card on record or new address), all eligible voter signature cards must be received by the Board no later than ten (10) days prior to the date of the Election.

20.08.8. Receipt of Absentee Ballots. All Absentee Ballots must be received by the Board no later than 5:00 PM on the business day which falls three days prior to the date of the General Election (e.g. if the General Election is on a Saturday, all Absentee Ballots must be received by the Board no later than 5:00 PM on the Wednesday preceding the Saturday Election).

20.08.9. General Election Date. General Elections for the purpose of choosing four (4) members of the Tribal Council shall be held on the first Saturday of December 2002 and on the second Saturday in January 2003 and on the second Saturday every fourth year thereafter. General Elections for the purpose of choosing five (5) members of the Tribal Council shall be held on the second Saturday of January 2005 and on the second Saturday of January every fourth year thereafter.

20.08.10. Counting of Ballots. The Board shall count the ballots after the polls close on the date of the General Election.

20.08.11. Unofficial Count Notification. The Board shall file a written report to the Tribal Council entitled, "Unofficial Count Notification," within forty-eight (48) hours of the closing of the polls. The Unofficial Count Notification shall include the information required by this Ordinance.

20.08.12. Election Disputes/Requests for Recount. All Election Disputes or Requests for Recount of the votes shall be filed with the Board within five (5) days after the date of the Election.

20.08.13. Certification of Election Results. The Board shall prepare a final Election report and certify the Election results to the Tribal Council and the Northern California Bureau of Indian Affairs (BIA) office no later than ten (10) days after the date of the Election, if no Election dispute has been filed and no later than thirty (30) days after the date of an Election if an Election dispute has been filed.

20.08.14. Method of Counting Days. For the purposes of this Ordinance, when counting to determine days prior to the date of the election, the date of the election will not be included in the count (e.g. 30 days prior to January 11, 2003 would be December 12, 2002); when counting days after the date of the Election, the date of the Election will not be included in the count (e.g., 5 days after January 11, 2003 would be January 16, 2003). Hours will be counted from the designated time in the schedule (e.g., 48 hours from the time the polls close on January 11<sup>th</sup> would be 8 p.m., January 13<sup>th</sup>).

## 20.09 Conduct of Elections.

20.09.1. General Election. A General Election is an Election when eligible voters vote among candidates to elect members to the Tribal Council. General Elections are held every two (2) years to comply with the Constitution's requirement for staggered Tribal Council member terms. The first General Election that will be held in accordance with this Ordinance will occur on January 11, 2003, and will be to elect four (4) Council Members to the Tribal Council.

20.09.3 . Run-off Election. In the event of a tie vote among candidates for Tribal Council that results in a greater number of persons than eligible seats for Tribal Council, the then current Tribal Council shall call a run-off Election among the candidates with tie votes. The Election shall be held within forty- five (45) days from the date of the General Election and shall be

conducted by the Board. Declaration of Candidacy Forms, Candidate Notifications to Tribal Council and Candidate Election Notices will not be required for the Run-off Election. The Board shall send out a Run-off Election Notice in lieu of a General Election Notice, advising the voters of the candidates running in the Run-off Election, the date, place and polling hours for the Run-off Election and which otherwise complies with Section 20.08, except for the Declaration of Candidacy Form. The Board shall establish a Schedule of Important Dates sufficient to accomplish the tasks necessary to conduct the Run-off Election and may modify the deadlines in Section 20.08 as necessary to accomplish the Run-off Election. The Schedule of Important Dates will be mailed to all eligible voters with the Board's Run-off Election Notice. With the exception of those timeframes required to be changed in order to hold the Run-off Election within the time period set forth herein, all laws regarding the conduct of Elections and General Elections shall apply to the conduct of a Run-off Election.

20.09.4. Polling Place. The Election polling place shall be within the boundaries of the Rancheria. The polling place shall be the then current Tribal Office Building of the Tribe, unless otherwise designated by the Tribal Council by Tribal resolution at least ninety (90) days prior to the date of the Election.

20.09.5. Voting Hours.

(a) On each Election day, the polling place shall be open and ready for voting from 7:00 AM to 8:00 PM. At 8:00 PM a Board member or person designated by the Board shall stand behind the last person in line which shall constitute the end of the line. Anyone standing in line to vote at 8:00 PM and who is in front of such person shall be allowed to vote. Persons arriving thereafter shall be informed that the polls are closed.

(b) The Tribal Council shall designate a person to open the location for the polling place (e.g. Tribal Office) in order to allow the Board access to the polling place no later than 6:30 AM the date of the Election.

20.09.6. Ballot Boxes.

(a) There shall be two (2) ballot boxes for the conduct of an Election. One (1) ballot box shall be marked permanently in red paint or indelible ink on the outside "Absentee Ballot Box." The other ballot box shall be marked permanently in black or white paint or indelible ink on the outside "Election Day Ballot Box." Both boxes shall have locks operated by keys and a slot on the outside only sufficiently large to accept an inserted ballot.

(b) As absentee ballots are received by the Board, they shall be date stamped on the outside large envelope with the date that they are received and placed into the "Absentee Ballot Box" in accordance with the procedures set forth below regarding absentee ballot voting.

(c) Once all absentee ballots that are received by the designated deadline are placed in the Absentee Ballot Box, the ballot slot on the box shall be covered with adhesive packing tape. The Absentee Ballot Box ballot slot shall be sealed with such packing tape, no later than 10:00 AM, the morning following the last business day on which absentee ballots must be received by the

Board. After the Absentee Ballot Box is sealed, the Board shall contact an Elk Valley Casino Security Officer. The Elk Valley Casino Security Officer then will accompany a Board member, other than the Board Chairperson, to the Elk Valley Casino where the Absentee Ballot Box will be secured in the Elk Valley Casino vault under camera surveillance.

(d) On the morning of the Election, a Board member other than the Board Chairperson, shall retrieve the Absentee Ballot Box from the Elk Valley Casino and an Elk Valley Casino Security Officer shall accompany the Board member to the polling place with the Absentee Ballot Box.

(e) The Board shall maintain the Election Day Ballot Box at its Board Office until the date of the Election.

(f) On the morning of the Election, the Board shall transport the Election Day Ballot Box to the polling place. At 7:00 AM, the Chairperson of the Board shall unlock the Election Day Ballot Box, turn over the ballot box and offer it for inspection to the other Board members and Tribal Members present at the polls to ensure that the ballot box is empty, and then secure the Election Day Ballot Box with the lock.

#### 20.09.7. Key Control of the Ballot Box Locks.

(a) Until the day of the Election, the Chairperson of the Board, only, shall maintain the keys to the ballot box locks. On the morning of the Election, after the Board Chairperson allows for the inspection of the Election Day Ballot Box and re-secures the lock, an Elk Valley Casino security officer shall accompany the Chairperson of the Board to the Elk Valley Casino, where the Elk Valley Casino shall secure the ballot box locks in the casino vault under camera surveillance. The Chairperson of the Board will sign in the keys and the casino employee who receives the keys will verify receipt of the keys with his or her printed name and signature.

(b) After the polls close, the Chairperson of the Board shall retrieve the ballot box locks from the Elk Valley Casino vault.

#### 20.09.8. Ballots.

(a) *Preparation of Ballots:* The Board shall prepare and have the ballots printed no later than twenty-five (25) days prior to the date of the Election.

(b) *Content of Ballots:* The names of all eligible candidates for Tribal Council shall be arranged alphabetically and all names shall appear in the same font and typeface on the ballot. The Board shall list the candidate on the ballot using the name the candidate designated on his or her Declaration of Candidacy Form. The ballot shall contain clear voting instructions that if the voter wishes to vote for a candidate, he should circle the candidate's name.

(c) *Quantity of Ballots:* The Board shall prepare a number of ballots equal to the number of registered voters. Additional ballots may be prepared if necessary in accordance with the procedures set forth in this Ordinance, e.g. If a person has not returned his Absentee Ballot or in the case of "Challenged Ballots."

(d) *Ballot Format:* To ensure voter secrecy and control the quantity of ballots, the Board shall prepare ballot envelopes with official ballots for each registered voter as set forth in this Ordinance. Each ballot will be placed in a large manila envelope along with a plain, anonymous white envelope marked "For Ballot Only;" and voting instructions. On the large manila envelope, the Board will pre-print the name of the registered voter in black ink on the front and back of the envelope. Each voter's large manila envelope either will be mailed to the voter if the voter requests an absentee ballot, or will be hand-delivered to the voter when the voter reports to the polling place on Election day. If a voter's ballot has been mailed to them for absentee voting, but has not been returned to the Board within the timeframe for absentee voting, the Board shall prepare another ballot envelope and ballot for the voter for Election day.

(e) *Unused Ballots:* After the polls close and before the Board begins the canvassing (counting) of the votes, the Chairperson of the Board shall record in writing the number of unused ballot envelopes and record the names of the corresponding persons who have not voted.

(f) *Sample Ballots:* An adequate supply of ballots plainly marked "SAMPLE BALLOTS" and printed on a paper of different color from that of the ballots prepared for voting purposes shall be distributed and posted in public places no later than fifteen (15) days prior to the date of the Election in order to acquaint voters with the ballot and with voting procedures.

20.09.9. Election Day Supplies/Equipment. Prior to 7:00 AM on the date of the Election, the Board shall deliver and arrange for the following items and equipment at the polling place:

(a) the Election Day Ballot Box, the Absentee Ballot Box, the Election Day Ballot Envelope Box and a Ballot Rejection Box;

(b) the registered voter ballot envelopes;

(c) the Voter Registration book(s) and the Voter Signature Cards arranged in alphabetical order;

(d) a ballot record book recording the total number of ballots printed and ballot envelopes prepared, the number of ballot envelopes used on Election day, the number of absentee ballot envelopes mailed and the number of ballot envelopes unused on Election day with their corresponding registered voter names,

(e) at least 50 pens for voters and sufficient pens and markers for the Board's use;

(f) an "OFFICIAL BALLOT" stamp;

(g) at least three (3) voting booths sufficient to provide privacy to the voter,

(h) lockable containers to secure voting supplies and equipment (e.g. unused ballots when the ballots close, tally sheets, etc.); and

(i) any other materials necessary to ensure the orderly conduct of the Elections.

## 20.10 Voting Procedures.

20.10.1. Secret Ballot. All voting shall be conducted by secret ballot.

20.10.2. Election Day Voting Process.

(a) On Election day, each registered voter must check-in at the Voter Registration Desk. The voter must sign his or her name in ink next to his or her printed name.

(b) The Board member staffing the Voter Registration Desk shall inspect the signature, compare it to the registered voter's signature card on file with the Board, and verify that the voter has not cast an absentee ballot.

(c) Once the Board member verifies the signature, the Board member will deliver to the registered voter, his or her ballot envelope. The Board member will place his or her initials next to the registered voter's pre-printed name on both the front and the back of the envelope. Additionally, the Board member will place a check mark and his or her initials in the Voter Registration Book verifying that the voter has picked up his or her ballot envelope.

(d) The registered voter will retire to a secret voting booth, remove the ballot and the plain white envelope from the large manila envelope. The voter will then mark his or her choices for Tribal Council by circling in blue or black ink his or her chosen candidates for office. When the purpose of the Tribal Election is to elect four (4) council members, the voter will circle no more than four (4) names on the ballot. When the purpose of the Tribal Election is to elect five (5) council members, the voter will circle no more than five (5) names on the ballot.

(e) When the voter completes his or her candidate Elections, he or she will place the ballot in the plain white envelope, seal the white envelope and place the white envelope in the large manila envelope. In addition, he or she will sign his or her name on the back of the large manila envelope under his or her preprinted name. He or she will then deliver the large manila envelope to the Board member attending the Election Day Ballot Box for inspection by the Board member that the large envelope has been initialed by the Voter Registration Desk Board Member and signed by the registered voter. In the presence of the Board member, the registered voter will remove the plain white envelope from the large manila envelope and hand the white envelope to the Board member. The Board member will stamp the outside of the white envelope with the "OFFICIAL BALLOT" stamp, initial the stamp, and place the white envelope in the Election Day Ballot Box. The Board member then will place the large manila envelope in a separate locked container marked "Ballot Envelopes" next to the Election Day Ballot Box.

(f) As technology and tribal resources develop, the Tribal Council may adopt by Tribal Resolution or through amendment to this Ordinance, alternative voting processes utilizing technological voting aids. In addition, in discretion of the Tribal Council, the Tribe may contract with the County of Del Norte to utilize their voting machines. If alternative methods are adopted by Resolution of the Tribal Council, said Resolution shall provide detailed instructions for the

alternative voting process and be posted in a conspicuous place, including but not limited to, the Tribal Office Building, no later than thirty (30) days prior to the Election.

20.10.3. Challenged Ballot. Any voter declaring that an Absentee Ballot has been destroyed and not delivered to the Board, or any voter who at the polls has been determined not qualified to vote and who insists on voting shall be issued a ballot by the Board that is stamped on the interior white envelope "CHALLENGED BALLOT." The Board shall write on the outside of the white envelope the reasons for the challenge. The challenged ballot shall be counted only if it is determined by the Board that the ballot should be declared valid. This determination shall be made during the "Counting of Votes" prior to the white envelope being opened and the ballot added to the other ballots. If a person not listed on the Voter Registration List is determined by the Board to have met all the requirements for inclusion on the list but has erroneously been left out of the Voter Registration List the challenged ballot will be counted.

20.10.4. No Electioneering or Campaigning. There shall be no Electioneering or campaigning within fifty (50) feet of the polling place during voting hours. The Board shall clearly mark off the areas where such activities are prohibited. If there are any campaign posters or flyers within the designated area at any time during voting hours, the Board shall remove such materials. If any candidate violates this section and engages in campaigning or Electioneering within the prohibited area during voting hours, the Board shall inform the candidate to cease such activity. If the activity persists, the candidate shall be disqualified from assuming or holding office. Nothing in this section shall be construed as prohibiting a candidate from being present at the polling place to cast his vote.

20.10.5. Poll Monitors. Each candidate may have one (1) poll monitor at the polling place on Election Day. The poll monitor may be permitted to remain at the polling place and observe the voting process on Election day, provided that the person does not disrupt or interfere with the voting process or engage in Electioneering or campaigning activities. If a candidate wishes to have a poll monitor, the candidate MUST designate in writing to the Board the person whom the candidate wishes to be his or her poll monitor, no later than 4:00 PM the day before the Election.

20.10.6. No Loitering. With the exception of designated poll monitors, persons shall not loiter at the polling place during voting hours.

20.10.7. Impaired or Disabled Voters. Any voter who cannot read the English language, is visually impaired or who otherwise suffers from a debilitating medical condition which requires voter assistance, may be assisted by a person of the voter's choice. However, to obtain neutrality, Board members shall not be permitted to assist such a voter in marking his or her ballot. The person who does assist the voter shall neither by word, action or expression influence or attempt to influence the voter's choices in directing the marking of the ballot.

20.10.8. Write-in Candidates. Writing in a candidate's or other person's name on a ballot is prohibited and votes cast in such manner are invalid and shall not be counted.

20.10.9. Absentee Ballot Voting Process.



(a) *Absentee Ballot Request Form.* The Board shall mail an Absentee Ballot Request Form to every registered voter with the General Election Notice no later than ninety (90) days prior to the date of the Election. All requests for an Absentee Ballot must be accompanied by a legible address. If the voter does not provide an address, the Board shall void the Absentee Ballot Request Form. The Absentee Ballot Request Form shall appear in substantially the following form:

State of \_\_\_\_\_

County of \_\_\_\_\_

I, \_\_\_\_\_ do solemnly swear that I am an eligible voter of the Elk Valley Rancheria; that I will be unable to cast my vote in person at the designated polling place on the day of the Election [for the following reasons]. Therefore, I hereby make application to the Tribal Election Board for an absentee ballot.

Please forward an Absentee Ballot to me at the following address:

Voter's Name \_\_\_\_\_

Voter's Tribal Enrollment Number \_\_\_\_\_

Voter's Signature \_\_\_\_\_

(b) *Application Time frame.* In order to absentee vote, the registered voter must return his or her Absentee Ballot Request Form to the Board no later than thirty (30) days prior to the date of the Election.

(c) *Response to Application.* Upon receipt of a properly completed and signed Absentee Ballot Request Application Form and no later than twenty-three (23) days prior to the date of the Election, the Board shall mail, registered mail the following to the eligible voter:

(1) A ballot for the absentee voter;

(2) A white envelope labeled "For Absentee Ballot Only"; (3) A postage prepaid manila/brown envelope with the P.O. Box address of the Board printed on its front and with a line for a notarized signature of the voter printed on the back of the same manila envelope; and

(4) A set of instructions printed as follows:

(i) Mark your ballot, and seal it in the white envelope marked "For Absentee Ballot Only."

(ii) Place the sealed white envelope marked "For Absentee Ballot Only" in the enclosed manila envelope addressed to the Board of Election Supervisors. Sign the back of the manila envelope in front of a notary public or Board Member. The notary public or Board Member should sign and affix their seal. Include your return address on the outside of the manila envelope. The manila

envelope containing all of the above must be received by the Tribal Election Board no later than 5:00 PM on the business day which falls three (3) days prior to the date of the General Election.

(d) *Marking Ballot.* The voter shall mark the absentee ballot by circling in blue or black ink his or her chosen candidates for office, and place and seal it in the white envelope. The absentee voter may have a person of his or her choice, other than the notary or Board member, assist him or her in marking the ballot if the person is impaired or disabled. Such person shall not attempt to influence the voter in favor of any candidate. The voter shall then place the sealed white envelope containing the ballot in the larger manila envelope. Additionally, the voter and the notary or officer shall complete the signature block on the back side of the manila envelope and include the voter's return address on the outside of the manila envelope. The voter may then hand-deliver or mail the manila envelope to the Tribal Election Board so that it is received by the Board no later than 5:00 PM on the business day which falls three (3) days prior to the date of the General Election.

(e) *Ballot Affidavit Form.* The manila return envelope shall bear upon the back a printed affidavit in substantially the following form:

State of \_\_\_\_\_, County of \_\_\_\_\_, I, \_\_\_\_\_  
do solemnly swear that I am an eligible voter of the Elk Valley Rancheria. I further swear or affirm that I personally voted on the enclosed ballot (or that it was marked according to my instructions because I was unable to do so).

Signature of Voter \_\_\_\_\_

SUBSCRIBED AND SWORN to before me, this \_\_\_\_ day of \_\_\_\_\_ 20\_\_.

I further certify that the Affiant exhibited the enclosed ballot to me unmarked. In my presence the Affiant personally and privately marked such ballot in such a manner that neither I, nor any other person, was able to see the Affiant vote; or it was marked by me according to the Affiant's instructions and enclosed and sealed in this envelope. The Affiant was not solicited or advised by any person to vote for or against any candidate or measure.

Signature of Notary or Board Member \_\_\_\_\_

Seal of Notary:

(f) *Board Duty Upon Receipt of Absentee Ballot Envelope.* Upon receipt of the envelope containing the absentee ballot the Board shall date stamp the outer envelope and shall compare the signature on the back of the manila/brown return envelope with the signature on the voter's Absentee Ballot Request Application Form and Voter Signature Card. If the Board is satisfied that the signatures are of the same person and the person is an eligible voter of the Tribe, the Board shall mark the voter's name on the Voter Registration Book as having voted as an absentee voter. The manila envelope will be placed and locked in the "Absentee Ballot Box." If the signatures are not of the same person or the person is not an eligible voter of the Tribe, then the manila envelope will be marked "REJECTED," and placed in the Absentee Ballot Box.

(g) *Storage and Transportation of the Absentee Ballot Box.* As set forth in Section 20.09.6 above, no later than 10:00 AM on the business day after the deadline for submitting absentee ballots, the Board shall seal the Absentee Ballot Box, ensure that the box is locked and transport the Absentee Ballot Box to the casino vault for surveillance and safekeeping until the date of the Election. On the morning of the Election, the Board shall transport the Absentee Ballot Box from the casino vault to the Election day polling place.

(h) *Verification of Absentee Voters.* No later than by 12:00 P.M. of the business day preceding the Election day, the Board shall compare the Absentee Voter Application Forms with the Voter Registration Book to determine who actually cast an absentee vote. If a voter requested an Absentee Ballot but did not return a ballot within the required timeframe, the Board shall prepare a Ballot Envelope for Election day, containing a ballot, the white "For Ballot Only" envelope and voting instructions in accordance with Section 20.09.8 above.

(i) A voter who has cast an Absentee Ballot shall NOT be permitted to vote on the date of the Election.

## 20.11 Counting of Votes.

20.11.1. Invalid Ballots. An invalid ballot shall be marked as "REJECTED" and placed in a locked Ballot Rejection Box. A ballot shall be considered invalid and placed into a Ballot Rejection Box if any of the following occurs:

- (a) A ballot is not placed in the "For Ballot Only," white envelope;
- (b) A white ballot envelope does not bear the "OFFICIAL BALLOT" stamp;
- (c) More than one ballot is enclosed in the "For Ballot Only" or "For Absentee Ballot Only" white envelope in such event, both ballots in the white envelope shall be rejected;
- (d) A ballot is signed or contains the voter's name, thereby violating the secrecy of the balloting;
- (e) More marks are made on the ballot than permitted or requested (e.g. a voter circles six (6) names rather than five (5) names);
- (f) A ballot is unmarked;
- (g) There are written comments, drawings, or write-ins on the ballot;
- (h) If an Absentee Ballot, for any of the following additional reasons:
  - (1) the outer manila/brown envelope containing the Absentee Ballot is returned without the signatures of the voter and the notary or Board member verified signature;

(2) more than one white "For Absentee Ballot Only" envelope is returned in the manila/brown envelope;

(3) the white ballot envelope is signed rather than the outer manila/brown envelope;

(4) the Absentee Ballot is received AFTER 5:00 PM on the business day which falls three (3) days prior to the date of the General Election; or

(5) the signature on the returned Absentee Ballot outer envelope does not match the signature on the Absentee Ballot Request Form or the voter's Voter Signature Card.

20.11.2. Verification of Total Number of Voters. Immediately after the closing of the polls, the Board shall inspect the Voter Registration Book and verify the total number of voters casting ballots in person on Election day and the total number of persons noted in the voter registration book as casting Absentee Ballots. Such numbers shall be recorded separately and alphabetically in writing and verified by the Chairperson of the Board's signature.

20.11.3. Unmarked Ballot Envelopes. All ballot envelopes that were not retrieved and marked by registered voters shall be placed in a sealed envelope/locked container and marked "UNMARKED BALLOTS," by a Board member.

20.11.4. Retrieval of Lock Box Keys. Immediately after the total number of registered voters has been verified, the Chairperson of the Board shall retrieve the keys to the ballot boxes from the casino vault.

20.11.5. Count Open to All Tribal Members. After the closing of the polls and the above procedures, the Board shall count the ballots and tally the votes at the polling place. Any Tribal Member may observe the ballot counting process, provided that the member does not disrupt or interfere with the ballot counting process.

20.11.6. Election Day Ballot Box. The count shall begin with counting the ballots cast in the Election Day Ballot Box. The Chairperson of the Board shall unlock the Election Day Ballot Box and remove all white ballot envelopes from the box. The ballots shall be counted as follows:

(a) The Chairperson shall verify that the outside of the white envelope bears the "OFFICIAL BALLOT" stamp and then hold up the white ballot envelope to the public;

(b) The Chairperson shall then open the envelope, inspect the ballot for validity and hand the ballot to another Board member. The Chairperson shall count the total number of ballots cast and a Board member shall count the total number of Election Day Ballot Envelopes (manila envelopes) to make sure the number is the same. That Board member shall then read aloud the marked candidate names while a third Board member records the votes on a written tally sheet. If any Board member doubts the validity of the ballot for any of the reasons enumerated in Section 20.11.1, the ballot may be rejected by majority vote of the Board. If three (3) out of the five (5) Board members vote to reject the ballot, the ballot shall be marked on the unprinted side: REJECTED and placed in the locked Ballot Rejection Box.

#### 20.11.7. Absentee Ballot Box.

(a) After all Election Day Ballots have been counted, the Chairperson of the Board shall unlock the Absentee Ballot Box and remove all the manila/brown envelopes from the ballot box. The Chairperson shall arrange the outer envelopes in alphabetical order. Once arranged the Chairperson shall read the names aloud as a second member verifies through the Voter Registration Book and list compiled pursuant to Section 20.11.2 that the person did not vote in person on Election Day. If there is an absentee ballot envelope for a person who is recorded as voting on Election day, the absentee envelope shall be marked "REJECTED," and placed in the locked rejection ballot box. The Chairperson shall also count the total number of absentee ballot envelopes in the box and compare such number with the number of absentee voters recorded from the Voter Registration Book.

(b) The Chairperson shall then open the outer envelope of each absentee ballot, retrieve the white "For Absentee Ballot Only" envelope, inspect the ballot for validity and hand the ballot to another Board member. That Board member shall then read aloud the marked candidate names while the third Board member records the votes on the written tally sheet. If any Board member doubts the validity of the ballot for any of the reasons enumerated in Section 20.11.1, the ballot may be rejected by majority vote of the Board. If three (3) out of the five (5) Board members vote to reject the ballot, the ballot shall be marked on the unprinted side: REJECTED and placed in the locked Ballot Rejection Box.

(c) All absentee voter outer manila envelopes shall be stored in a separate locked container, marked Absentee Ballot Envelopes.

20.11.8. Tally Sheet. After all the valid ballots have been counted, the Board member recording the votes shall compile the vote results and record the vote results on a separate sheet of paper. Then the other Board member and the Chair shall review the tally sheets separately and record the vote results on a separate sheet of paper. Once completed the three (3) Board members shall each announce their vote results. If there is any discrepancy among the Board members in the total vote results, the Board members shall each review the tally sheet and their count again to resolve the discrepancy. Once resolved, the Board members shall record on a separate sheet at the end of the tally sheets, the "FIRST COUNT RESULTS OF THE ELECTION," sign their names verifying the results, and announce the first count results of the Election.

20.11.9. Immediate Recount. If, after the Board announces the "first count results," a vote discrepancy is noted between the Board's first count and the counts recorded by at least three (3) of the poll monitors that affects the candidates winning Election to office, the Board shall conduct an immediate recount of the ballots following the above process, except that during the recount a different Board member shall record the votes on the tally sheet. The tally sheets used for the recount shall all be labeled "RECOUNT TALLY SHEET." At the end of the recount, the Board shall record on a separate sheet at the end of the tally sheets, the "SECOND COUNT RESULTS OF THE ELECTION" sign their names verifying the results, and announce the second count results of the Election.

20.11.10. Unofficial Results.

(a) If there is no immediate recount of the votes the night of the Election, or the results of the first count are the same as the second count, the Board shall announce the unofficial results of the Election to the public, complete an "UNOFFICIAL RESULTS" form, sign their names verifying the results and attach the form to the tally sheets.

(b) In the event of an immediate recount that results in different voting totals between the first count and the second count, the Board, may in its sole discretion, confer among themselves and determine which results the Board believes to be the correct results. If the Board does not unanimously agree on the results, then the Board shall not announce any unofficial results and shall announce a time for a third count for the following day. If the Board does unanimously agree on the results, the Board may either announce the "UNOFFICIAL RESULTS" of the Election or it may order a third count for the following day.

(c) If a third count is required, the Board shall secure all the ballots as set forth below, and conduct a third count the day after the Election. The Board has discretion in setting the time for the third count, however, the third count must be completed by the Board no later than 7:00 PM the day after the Election. The third count shall be held in the polling place, shall be open to the Tribal community and shall be conducted in the same manner as the first and second count; however, during a third recount, the Chairperson shall tally the votes while the other Board members perform the other vote counting tasks. At the completion of the third count, the Board shall announce and record the "THIRD COUNT RESULTS OF THE ELECTION," and by majority vote of the Board determine the "UNOFFICIAL RESULTS" of the Election and complete the "UNOFFICIAL RESULTS" form as set forth above.

20.11.11. Unofficial Count Notification. The Board shall complete and file with the Tribal Council Secretary the Unofficial Count Notification no later than forty-eight (48) hours after the closing of the polls. The Board shall also post the Unofficial Count Notification at the Tribal Office and any other locations designated by the Tribal Council. The Unofficial Count Notification shall be a written report to the Tribal Council and shall contain the following information:

(a) the winning candidates of the Election;

(b) the number of registered voters for the Election

(c) the total number of registered voters casting ballots in the Election, including a breakdown of the number of voters casting ballots in person on the date of the Election and the number of voters casting ballots through the absentee voting process;

(d) the total number of ballots cast;

(e) the number of ballots which were deemed valid and counted;

(f) the number of invalid or rejected ballots and the reasons why each such rejected ballot was deemed invalid;

(g) the total number of unused ballots;

(h) a report of the total valid votes cast for each candidate; and

(i) the signatures of all of the Board members attesting to the truth and accuracy of the information contained in the report.

20.11.12. Certification of Election Results. The Board shall prepare a final Election report entitled "Certification of Election Results," and certify the Election results to the Tribal Council and the Northern California BIA office no later than ten (10) days after the date of the Election, if no Election dispute has been filed and no later than thirty (30) days after the date of the Election if an Election dispute has been filed. The final Election report shall contain all of the information required in the Unofficial Results Notification, Section 20.11.11, and shall contain the following additional information:

(a) whether any Election disputes or challenges were filed;

(b) if any Election disputes or challenges were filed, a summary of the substance of each dispute and the resolution of each dispute; and

(c) an explanation of how and where all materials related to the Election will be stored.

20.11.13. Retention of Election Materials. All Election materials, including but not limited to Election day and absentee ballots, absentee ballot request forms, ballot envelopes, ballot affidavit forms, vote counting tally sheets, and similar materials shall be retained by the Board in a locked and secured location for a period of one (1) year from the date of the Election. The Voter Registration List and Voter Signature Cards shall be retained by the Board in a locked and secured location until a new or updated Voter Registration List is compiled for the next Election.

## 20.12 Election Challenges and Disputes.

20.12.1. Election Appeals Board. No later than 120 days prior to a General Election the Tribal Council shall appoint three (3) enrolled Tribal Members to the Tribal Election Appeals Board ("Appeals Board") who meet the qualifications for registered voters pursuant to this Ordinance. The Election Appeals Board shall convene in the event that an Election dispute is filed with and denied by the Tribal Election Board and subsequently appealed to the Election Appeals Board, or in the event that the subject matter of the dispute involves allegations against the Tribal Election Board as a body or more than two of its individual members. The Election Appeals Board shall select a chairperson from among themselves.

20.12.2. Election Judge. No later than one hundred twenty (120) days prior to a General Election, the Tribal Council shall contract with another tribe or intertribal court system or other suitable entity or individual for judicial services in the event that an Election challenge appeal is brought in accordance with this Ordinance. The contract shall provide for judicial services by a neutral

third-party, who can hear an appeal of an Election dispute and who shall have jurisdiction and authority to issue a remedy as provided for in this Ordinance. The contract preferably will provide for the judicial services to be provided at a designated location within the boundaries of the Rancheria.

20.12.3. Jurisdiction and Tribal Law. The Tribe expressly grants jurisdiction to the Tribal Election Board, Election Appeals Board, and any Election Judge or Court System contracted pursuant to Section 20.12.2, to hear and decide Election disputes filed pursuant to the provisions of this Ordinance. In hearing and deciding any such Election dispute, the Board, Election Appeals Board or Election Judge or Court system shall apply Tribal law, including this Ordinance and the tribe's Constitution, in resolving the dispute. The Board, Election Appeals Board or Election Judge or Court System shall have no authority or jurisdiction to apply or order any remedy to a dispute other than the remedies specifically set forth herein.

20.12.4. Time for Challenge. Any eligible voter who wishes to challenge an Election for the reasons set forth herein must file his or her challenge with the Board and the Tribal Council no later than three (3) days after the "Unofficial Count Notification" is posted at the Tribal Office and delivered to the Tribal Council.

20.12.5. Grounds for Election Challenges. Any eligible voter has the right to challenge an Election or Election results for any of the following specified reasons:

- (a) That a person who has been announced elected to the office of Tribal Council was not, at the time of the Election, qualified to run as a candidate or hold office in accordance with the requirements of the Constitution and this Ordinance.
- (b) That a member of the Tribal Elections Board engaged in malconduct in the conduct of the Election sufficient to change the result of the Election as to any person who has been declared elected;
- (c) That invalid ballots were included in the vote count or that valid ballots were deemed invalid/rejected and not included in the vote count sufficient to change the result of the Election as to any person who has been declared elected.
- (d) That errors or irregularities occurred in the conduct of the Election or counting of the votes sufficient to change the result of the Election as to any person who has been declared elected.
- (e) That a person who has been announced elected to the office of Tribal Council attempted to offer, offered or gave to any registered voter any bribe or reward for the purpose of procuring his or her Election to the office.
- (f) That a person elected to office of Tribal Council engaged in campaigning or Electioneering within fifty (50) feet of the polling place after a first warning by the Board, as prohibited by Section 20.10.4.



20.12.6. Informality of Proceedings. All proceedings under this section shall be conducted informally and in a non-adversarial manner. All Tribal entities charged with conducting investigations of any Election complaint shall have the obligation to thoroughly and fairly investigate all complaints in a prompt manner.

20.12.7. Initiation of Election Challenge. An eligible voter may challenge Election results and the conduct of the Election for any of the reasons set forth in Section 20.12.5. The protesting voter (Protester) must file a sworn written complaint with the Tribal Election Board no later than three (3) days after the Tribal Election Board posts and files its Unofficial Results Notification. The written complaint must include:

- (a) The printed name and address of the Protester and a signed statement that he or she is a registered voter of the Tribe; and
- (b) The name of the candidate or person who is the subject of the Protester's challenge; and
- (c) A statement setting forth the specific reasons for the challenge to the Election.

20.12.8. Complaint. The Board shall provide a complaint form (in substantially the form set forth in this ordinance) upon request to any voter. The complaint shall be submitted to the Chairperson of the Tribal Elections Board unless it includes allegations against the Board Chairperson. In that event, the complaint shall be filed with one of the other Board members. The voter submitting the complaint shall receive a copy of the complaint indicating that the complaint was received by the Chairperson or Member of the Tribal Elections Board and the time and date of receipt.

20.12.9. Hearings. The Board shall meet within forty-eight (48) hours of receipt of the complaint and shall:

(a) either: (i) schedule a hearing within two (2) days to receive evidence and testimony; or (ii) decline to hear the complaint because the complaint is against the Tribal Election Board as a body or members of the Board in which case the Tribal Election Board shall forward the complaint to the Appeals Board.

(b) In all Board hearings (including Appeals Board hearings), the Protester shall be notified of the date, time and place of said hearing and of his or her right to be present and to introduce evidence and testimony. The Chairperson of the Board or his or her designee shall preside over the hearing. Board members may examine any Protester, witness or evidence presented.

(c) If the complaint is forwarded to the Appeals Board, the Appeals Board shall meet within forty-eight (48) hours of receipt of the complaint and shall schedule a hearing within two (2) days to receive evidence and testimony

20.12.10. Hearing Decision. Within three (3) days of completion of the scheduled hearing set forth in Section 20.12.9, the Board or Appeals Board shall make a written decision regarding the complaint. If the Board or Appeals Board finds in favor of the Protester it shall award the appropriate relief as provided for in Section 20.12.11 . The Board, Appeals Board and Election

Judge or Court System shall not have discretion to order any other remedy other than the remedies provided by this Ordinance. If the Board or Appeals Board does not find in favor of the Protester, the Tribal Election Board will proceed with the certification of the Election results provided that the appeals period set forth in this Ordinance has run. The findings and decision of the Board or Appeals Board shall be in a written report, a copy of which shall be provided in the most expeditious way to the Protester and the Tribal Council and shall be available to the Tribal community.

20.12.11. Election Challenge Remedies. The following remedies shall be applied if the Board, Appeals Board or the Election Judge determines in favor of an Election challenge:

(a) If it is determined that a person announced as elected to the office of Tribal Council is not eligible or qualified to hold office in accordance with the qualifications for candidates set forth in Section 20.06 of this Ordinance or the Constitution, or that the candidate engaged in prohibited campaigning or Electioneering at the polling place, that candidate's Election shall be set aside or annulled, and the next candidate with the highest number of votes shall be considered elected to office.

(b) Malconduct by a member of the Tribal Election Board shall not result in setting aside or annulling the Election, unless the malconduct was sufficient to change the results of the persons elected to Tribal office or who would have been elected to Tribal office.

(c) An Election shall not be set aside or annulled on account of invalid ballots, unless it appears that a number of invalid ballots have been counted in favor of a person, which if taken from him or her, would reduce the number of his or her valid votes below the number of votes counted in favor of another candidate, after deducting therefrom any invalid votes which may have been counted in favor of that other candidate. In this event and unless otherwise specified herein, the Tribal Election Board, Elections Appeals Board or Election Judge shall declare the other candidate as the candidate elected to Tribal office.

(d) An Election shall not be set aside or annulled because otherwise valid ballots have not been counted, unless it appears that a number of uncounted valid votes would have been counted in favor of a candidate, which if added to his or her results, would increase the number of his or her valid votes above the number of votes counted in favor of another candidate, after adding thereto any uncounted valid votes which would have been counted in favor of that other candidate. In this event and unless otherwise specified herein, the Tribal Election Board, Election Appeals Board or Election Judge shall declare the candidate with the highest number of votes as the candidate elected to Tribal office.

(e) An entire Election shall not be set aside or annulled and a new Election called, unless Board member's malconduct or ballot irregularity invalid ballots cast or valid ballots not counted is so egregious that the Tribal Election Board, Election Appeals Board or Election Judge cannot correct the errors sufficient to determine the true Election results.

(f) If it is determined beyond a reasonable doubt that a person who has been announced elected to the office of Tribal Council attempted to offer, offered or gave to any registered voter any

bribe or reward for the purpose of procuring his or her Election to the office, the Election of that person shall be set aside and annulled and the candidate with the next highest number of votes shall be declared elected to Tribal office. The disqualified candidate will be fined \$100.00 and shall not be eligible to run for Tribal elective office for a minimum of five (5) years.

(g) If necessary to determine the validity of the complaint or to determine the appropriate remedy pursuant to sub-sections (b) through (e) above, the Board, Appeals Board or Election Judge may order a recount of the vote. Said recount must be completed no later than 48 hours after the order to conduct a recount.

20.12.12. Complaint Form.

Elk Valley Rancheria

## TRIBAL ELECTIONS BOARD COMPLAINT FORM

### I. INSTRUCTIONS

1. Please fill out this complaint form as completely as possible. If you have statements of witnesses, please attach them to this Complaint form.
2. After completing this form, please submit the form to the Chairperson of the Board unless the Complaint is against the Chairperson of the Board, in which case, submit your Complaint to any other Board Member.
3. You will be asked to appear at a hearing to give your sworn testimony and the testimony of witnesses.
4. After the complaint is investigated, you will be provided with a written report of the investigation and the recommended actions.
5. You have the right to an appeal of the decision to the Elections Appeal Board or (the Election Judge in accordance with the Tribal Election Ordinance.

### II. COMPLAINT

- 1 . Please give a detailed description of the actions about which you are complaining. If you need more space, please attach separate sheets of paper to this form.
2. Where did the complained of act happen?
3. when did it occur? (Date and time.)
4. Who did the act?
5. Please give the names of all witnesses:



(b) If the Appeals Board heard and determined the Election challenge, an appeal of the decision may be brought by either the Protester or the challenged candidate to the Election Judge. The written appeal shall be filed with the Secretary of the Tribal Council who shall date stamp the appeal and forward the appeal, via overnight mail, to the designated Election Judge.

(c) Any appeal made in accordance with this section must be brought in writing by the Protester or challenged candidate within three (3) days of the hearing decision.

(d) It is the Appellant's responsibility to include all of the following information in the appeal and if he or she fails to provide all the required information, the appeal will be denied. The Appellant must include in his or her appeal all of the following information.

(1) The printed name and address of the Appellant and a signed statement that he or she is a registered voter of the Tribe;

(2) A statement setting forth the specific reasons for the appeal;

(3) A copy of the original Election challenge complaint; and

(4) A copy of the written decision by the Board or Appeals Board.

(e) Within 48 hours of receipt of the appeal, the Appeals Board or the Election Judge shall either: (i) notify the Appellant of the date for a hearing within five (5) days of the appeal in accordance with the procedures set forth above in Section 20.12.9; or (ii) notify the Appellant that it will make its determination without the need for a hearing through review of the written complaint, the Board or Appeals Board decision, and an on-site inspection, if necessary, of the disputed Election materials. Such review shall be completed within five (5) days ("appeal review period").

(f) Within three (3) days of completion of the appeals hearing or the appeal review period, the Appeals Board or the Election Judge shall make a written decision regarding the appeal. If the Appeals Board or Election Judge finds in favor of the Appellant it shall reverse the prior decision and either award the appropriate relief as provided for in Section 20.12.11 or order that the Election results stand.

(g) The Appeals Board and Election Judge shall not have discretion to order any other remedy other than the remedies provided by this Ordinance. The findings and decision of the Appeals Board or Election Judge shall be in a written report, a copy of which shall be provided in the most expeditious way to the Appellant, the Tribal Election Board and the Tribal Council and shall be available to the Tribal community. The decision of the Appeals Board or Election Judge is final and shall not be appealable to any Court.

(h) Nothing in this section shall be deemed or construed as a waiver of the tribe's sovereign immunity.

## 20.13 Elected Officials.

20.13.1. Composition of Tribal Council. The Tribal Council shall consist of a Chairperson, Vice-Chairperson, Secretary and Treasurer and five (5) additional Council members. Selection of the Chairperson, Vice-Chairperson, Secretary and Treasurer shall be made by secret ballot majority vote of the Tribal Council immediately after their installation as Council Members and their Oath of Office.

20.13.2. Installation of Council Members. All persons elected as members of the Tribal Council shall be installed in office at the next regularly scheduled Tribal Council meeting following the Certification of Election Results.

20.13.3. Oath of Office. Each person elected to Tribal office shall take the following oath of office prior to assuming the duties thereof:

I, \_\_\_\_\_ do solemnly swear that I will support and carry-out, insofar as is within my power, the Constitution of the Elk Valley Rancheria California and the resolutions, codes and ordinances adopted pursuant thereto, and that I will honestly, faithfully and impartially discharge the duties of my office in the best interest of the Elk Valley Rancheria, California.

20.13.4. Term Limitations. There shall be no limit on the number of times members of the Tribal Council may be re-elected to the office of Council Member.

20.13.5. Terms. At the Election held on December 2, 2000:

(a) The five (5) persons who received the highest number of votes were elected for four (4) year terms of office. Elections for these five (5) Council positions will be held the second Saturday of 2005, and every fourth year thereafter.

(b) The four (4) remaining persons were elected to two (2) year terms of office. Elections for these four (4) Council positions will be held the second Saturday of January 2003, and every fourth year thereafter.

(c) At the Election to be held the second Saturday of January 2003, and thereafter, all terms of office shall be for a period of four (4) years.

(d) Council members shall hold their offices until their successors are duly elected and installed.

20.13.6. Terms of Officers. The officers of the Tribal Council elected pursuant to Section 20.13.1 of this Ordinance, shall hold office from the time of their Election as officers until the end of their individual terms of office as Tribal Council Members and their successors are sworn in. After their successors are sworn in, the then current Tribal Council shall elect a new officer for the position in accordance with Section 20.13.1 above.

20.13.7. Removal. Any Tribal Council member, including the Chairperson, Vice-Chairperson, Secretary or Treasurer, may be removed from the Tribal Council on the grounds of neglect of duty or gross misconduct, by majority vote of the entire membership of the Tribal Council.

Before any vote for removal is taken by the Tribal Council, the Tribal Council shall deliver to the Council Member whose removal is sought, a written statement of the specific grounds for removal. The written statement shall be delivered via certified mail or personal delivery at least five (5) days before the meeting of the Tribal Council at which the matter of removal is to be decided. The Council member whose removal is sought may be represented by legal counsel or other person at the Council Member's own cost, and shall have the opportunity to answer any and all charges, present documentation and to call witnesses on his or her own behalf at the Tribal Council meeting calling for his or her removal. No member of the Tribal Council shall preside over the meeting considering his or her removal.

20.13.8. Vacancy in the Office of Tribal Council Member. Upon the death, resignation, removal or recall of a Tribal Council member, his or her seat shall automatically be considered vacant and at the next regularly scheduled Council meeting the Tribal Council shall appoint by majority vote a qualified member of the Tribe to complete the unexpired term. In the event a vacancy occurs on the Tribal Council within six (6) months of the next scheduled Election for the Tribal Council term vacated, the Tribal Council may decline making an appointment and leave the seat vacant.

20.13.9. Vacancy in the Office of Chairperson, Vice-Chairperson, Treasurer and Secretary. Upon the death, resignation, removal or recall of a Tribal Council member, who holds the office of Chairperson, Vice-Chairperson, Treasurer or Secretary, his or her seat shall automatically be considered vacant. After the Council appoints a successor to complete the unexpired term as Council member, the Tribal Council shall select from within its membership a successor to hold the office in accordance with Section 20.13.1.

#### 20.14 Recall.

20.14.1. Recall: Number of Petitioners. The eligible voters of the Tribe shall have the right to call for the recall of any member of the Tribal Council by filing with the Board a petition meeting the requirements of this Ordinance, and signed by at least thirty (30%) of the registered voters of the Tribe. The Board shall calculate the 30% of registered voters based on the Voter Registration List of the most recent Tribal Council Election. Only registered voters of the Tribe may circulate and sign recall petitions.

20.14.2. Time for Filing. A recall petition shall not be circulated against any Tribal Council Member until that member has held office for a period of six (6) months.

20.14.3. Request for Petition. A registered voter intending to file a recall petition, shall submit a written request to the Board for issuance of a recall petition. In the written request, the voter must include the following information:

(a) the name, address and enrollment number of the voter requesting the petition;

(b) the Tribal Council Member against whom the petition is requested.

20.14.4. Form of Petition. A recall petition shall contain the following information:

(a) an official recall petition number issued by the Board and appearing on every page of the petition;

(b) the following statement on each page of the petition:

We, the registered voters of the Elk Valley Rancheria, from which \_\_\_\_\_ (name and title of office of Council member being recalled), demand his or her recall.

(c) the printed name, enrollment number, date of birth and address of each registered voter signing the petition;

(d) petition; a signature block for the name of each registered voter signing the

(e) the date on which the registered voter signed the petition; and

(f) an affidavit of verification of signatures as required by Section 20.14.5 below.

20.14.5. Affidavit of Verification of Signatures. The registered voter before whom the signatures were written on the signature sheet of the petition shall, in an affidavit subscribed and sworn to him before a notary public, verify that each of the names on the sheet were signed in his presence on the date indicated, and that in his belief each signer was a qualified voter of the Tribe.

20.14.6. Submission of Petition for Verification. The petition shall be submitted to the Board for verification of signatures.

20.14.7. Verification of Signatures. Within ten (10) business days after submission of a recall petition for verification of signatures, the Board shall count the number of signatures thereon and verify that the signers are registered voters of the Tribe. Entries on the petition that cannot be verified because they are illegible or incomplete shall not be counted toward the number of signatures required to call the recall Election. If the number equals or exceeds the minimum number required by the Constitution and this Ordinance the Board shall certify to the Tribal Council the number of sheets and signatures. If the number of signatures does not equal or exceed the minimum number required by the Constitution and this Ordinance, the Board shall notify in writing the registered voter that the petition did not contain the requisite number of signatures. The Board shall maintain the petition(s) in a secured location for a period of one year from the date of its submission.

20.14.8. Resignation of Council Member. If a Council Member against whom a recall petition is filed desires to tender his resignation, he may do so by filing a written tender thereof with the Secretary of the Tribal Council. In such event, his resignation shall be accepted and the vacancy shall be filled as provided by Section 20.13.9 of this Ordinance.



20.14.9. Calling of Recall Election. If the Council Member against whom a successful petition is filed does not resign within five (5) days of the certification of the petition to the Tribal Council, the Tribal Council shall call a special Recall Election to be held within forty-five (45) days of the date of certification of the recall petition. The Recall Election shall be conducted by the Board. The Board shall send out a Recall Election Notice in lieu of a General Election Notice, advising the voters of the date, place and polling hours for the Recall Election. The Board shall establish a Schedule of Important Dates sufficient to accomplish the tasks necessary to conduct the Recall Election and may modify the deadlines in Section 20.08 as necessary to accomplish the Recall Election. The Schedule of Important Dates will be mailed to all eligible voters with the Board's Recall Election Notice. With the exception of those laws inapplicable to the Election because of its nature as a Recall Election provisions related to the conduct of General Elections shall apply to the conduct of a Recall Election.

20.14.10. Recall Election Ballot. The ballot in a Recall Election shall appear in substantially the following form:

Shall \_\_\_\_\_ (name, title of Council member being recalled) be recalled from office? YES NO

20.14.11. Number of Votes Required for Recall. The Council Member shall be recalled if a majority (51 %) of the voters voting in the recall Election, vote "YES" to recall the Council Member, provided that at least thirty (30%) of the number of persons appearing on the Voter Registration List for the Recall Election have voted in the Recall Election. If the Council Member is recalled the vacancy shall be filled in accordance with Section 20.13.8 of this Ordinance.

20.15 Referendum.

20.15.1. Referendum. The qualified voters of the Tribe shall have the right to petition for a referendum to be held on any enacted or proposed Tribal legislation by filing with the Board a petition, meeting the requirements of this Ordinance and signed by at least thirty (30%) of the registered voters of the Tribe. The Board shall calculate the 30% of registered voters based on the Voter Registration List of the most recent Tribal Council Election. Only registered voters of the Tribe may circulate and sign a petition for referendum. Nothing in this Ordinance shall prohibit the Tribal Council from submitting legislation to the registered voters of the Tribe for referendum vote without the need for a petition for referendum being filed.

20.15.2. Form of Referendum Petition. A referendum petition shall contain the following information:

(a) an official referendum petition number issued by the Board and appearing on every page of the petition;

(b) the following statement on each page of the petition:

We, the registered voters of the Elk Valley Rancheria, request that the Tribal Council call a Referendum Election to be held regarding the passage of the following legislation:  
\_\_\_\_\_ (describe Ordinance or proposed Ordinance).

(c) the printed name, enrollment number, date of birth and address of each registered voter signing the petition;

(d) a signature block for the name of the each registered voter signing the petition;

(e) the date on which the registered voter signed the petition; and

(f) an affidavit of verification of signatures as required by Section 20.14.5 of this Ordinance.

20.15.3. Verification of Signatures. The signatures shall be verified and certified in the same manner called for in Section 20.14.7 of this Ordinance for recall petitions.

20.15.4. Calling of Referendum. Upon certification of a valid petition for referendum the Tribal Council shall call a Referendum Election to be held within thirty(30) days of the date of certification of the referendum petition. The Referendum Election shall be conducted by the Board. The Board shall send out a Referendum Election Notice in lieu of a General Election Notice, advising the voters of the date, place and polling hours for the Referendum Election. The Board shall establish a Schedule of Important Dates sufficient to accomplish the tasks necessary to conduct the Referendum Election and may modify the deadlines in Section 20.08 as necessary to accomplish the Referendum Election. The Schedule of Important Dates will be mailed to all eligible voters with the Board's Referendum Election Notice. With the exception of those laws inapplicable to the Election because of its nature as a Referendum Election, provisions related to the conduct of General Elections shall apply to the conduct of a Referendum Election.

20.15.5. Number of Votes Required to Pass Referendum. The referendum measure shall pass if a majority (51%) of the voters voting in the Referendum Election, vote to pass the measure, provided that at least thirty (30%) of the number of persons appearing on the Voter Registration List for the Referendum Election have voted in the Referendum Election. If the referendum measure passes, the action of the voters is final and cannot be overturned by action of the Tribal Council, unless the measure is determined to violate the Constitution or other applicable law.

## 20.16 Initiative.

20.16.1. Initiative. The qualified voters of the Tribe shall have the right to independently propose legislative measures by filing with the Board the legislation along with a petition, meeting the requirements of this Ordinance, and signed by at least thirty (30%) of the registered voters of the Tribe. The Board shall calculate the 30% of registered voters based on the Voter Registration List of the most recent Tribal Council Election. Only registered voters of the Tribe may circulate and sign a petition for initiative.

20.16.2. Form of Initiative Petition. A petition accompanying a proposed initiative shall contain the following information:

(a) an official initiative petition number issued by the Board and appearing on every page of the petition;

(b) the following statement on each page of the petition:

We, the registered voters of the Elk Valley Rancheria, request that the Tribal Council call an Initiative Election to be held regarding the passage of the following legislation:

\_\_\_\_\_ (attach proposed legislation).

(c) the printed name, enrollment number, date of birth and address of each registered voter signing the petition;

(d) a signature block for the name of the each registered voter signing the petition;

(e) the date on which the registered voter signed the petition; and

(f) an affidavit of verification of signatures as required by Section 20.14.5 of this Ordinance.

20.16.3. Verification of Signatures. The signatures shall be verified and certified in the same manner called for in Section 20.14.7 of this Ordinance for recall petitions.

20.16.4. Calling an Initiative. Upon certification of a valid petition for initiative, the Tribal Council shall call an Initiative Election to be held within thirty(30) days of the date of certification of the initiative petition. The Initiative Election shall be conducted by the Board. The Board shall send out an Initiative Election Notice in lieu of a General Election Notice, advising the voters of the date, place and polling hours for the Initiative Election. The Board shall establish a Schedule of Important Dates sufficient to accomplish the tasks necessary to conduct the Initiative Election and may modify the deadlines in Section 20.08 as necessary to accomplish the Initiative Election. The Schedule of Important Dates will be mailed to all eligible voters with the Board's Initiative Election Notice. With the exception of those laws inapplicable to the Election because of its nature as an initiative, provisions related to the conduct of General Elections shall apply to the conduct of an Initiative Election.

20.16.5. Number of Votes Required to Pass Initiative. The Initiative measure shall pass if a majority (51 %) of the voters voting in the Initiative Election, vote to pass the measure, provided that at least thirty (30%) of the number of persons appearing on the Voter Registration List for the Initiative Election have voted in the Initiative Election. If the Initiative measure passes, the action of the voters is final and cannot be overturned by action of the Tribal Council, unless the measure is determined to violate the Constitution or other applicable law.

20.17 Penal Provisions.

20.17.1. Bribery of Electors. It is unlawful to give or promise any money or other thing of value to any person for the purpose of influencing said person to vote or refrain from voting at any Tribal Election, or to vote for any particular candidate at such Election; or to give or cause to be given, or promise to be given, any money or other thing of value to any person with the intent that any part of said money or thing of value shall be used for bribery in connection with any Tribal Election; or to knowingly give or cause to be given or promise to be given, any money to any person as reimbursement for money or other thing of value expended by such person in whole or in part for bribery at any Tribal Election; provided, however, that it shall not be unlawful for any candidate personally or by agent to provide transportation to the polling places to any voter.

20.17.2. Coercion of Voters. It is unlawful to make use of force, or to request another person to sue or threaten force, in order to influence any person's vote in any Tribal Election.

20.17.3. Intimidation of Employees by Employers. It is unlawful for any employer to attempt by any means whatever at his or her place of business to influence the vote of any Tribal Member employee in any Tribal Election. It is unlawful for an employer to threaten a Tribal Member employee with dismissal from employment, reduction of pay, loss of seniority, transfer, or less favorable working conditions, for the purpose of influencing such employee to sign a petition, vote or to refrain from voting, or to vote for any particular person or issue in any Tribal Election.

20.17.4. Campaigning by Employees. It is unlawful for any employee of the Tribe, its enterprises, or contractors to politically campaign for a person or issue or attempt to influence the vote of any other person during working hours.

20.17.5 . Interference with or Corruption of Election Officer. It is unlawful for any person to offer or give a bribe to the Chairperson or any member of the Tribal Election Board or its staff; or to influence or attempt to influence any of said officers or staff in the performance of their official duties by means of force threats or promises of any nature.

20.17.6. Violations of Duty by Election Officer. It is unlawful for the Chairperson and/or members of the Tribal Election Board or Appeals Board and/or its staff to knowingly and willfully fail or neglect to perform any duty under any part of this Election Code in the manner prescribed by this Election Code, to engage in malconduct, or to accept any money or other thing of value from any candidate or from anyone acting or purporting to act on behalf of any candidate.

20.17.7. Illegal Registration or Voting. It is unlawful for any person to vote in a Tribal Election knowing he does not possess the qualifications for eligibility, to register, or attempt to register to vote in such Tribal Election; or to vote in such Election; or for any person who is not registered as a voter of the Tribe to vote or attempt to vote in any Tribal Election.

20.17.8. False Representation in Petitions. It is unlawful for any person to knowingly sign any name other than his own to a recall, referendum or initiative petition, except in a circumstance where he signs for a person in the presence of and at the specific request of such person who is

incapable of signing his own name because of physical infirmity, or who knowingly signs his name more than once for the same petition, or who knowingly is not a qualified voter at the time of signing.

20.17.9. Penalties. Any person violating any section of this Ordinance shall be guilty of an offense against the Tribe and upon conviction thereof after a full hearing, by the Elk Valley Tribal Court, if any, or the Tribal Council, if there is not a Tribal Court, shall be fined not more than \$500.00, shall be declared ineligible to serve on the Tribal Election Board for a minimum of five (5) years, shall be declared ineligible to run for Tribal Council Office for a minimum of five (5) years, and shall be declared ineligible to vote in any Tribal Election for a period not to exceed five years.

20.17.10. Penalties for Nonmembers or Entities. Any non-member employee, association, corporation, or other entity which shall violate any section of this Ordinance shall be ordered to show cause before the Tribal Council why it should not be barred from receiving any lease, right-of-way, contract, franchise, or concession of any character whatsoever thereafter from the Tribe. If upon hearing of such order to show cause, it appears to the Tribal Council that the said person or entity is guilty of violating such section, said persons or other entity shall be barred for a period of not less than one (1) year nor more five (5) years from receiving any lease, right-of-way, contract, franchise, or concession of any character whatsoever from the Tribe.

#### 20.18 Procedure for Withdrawing Signatures.

A qualified voter who has signed a recall, referendum or an initiative petition may, by executing and filing with the Board an affidavit in the form prescribed by this section within five (5) days from the day on which the petition is filed with the Board, withdraw his signature from the petition. Any signature so withdrawn shall not be counted in determining the legal sufficiency of the petition. The affidavit shall:

- (a) Be signed and sworn to before a notary public; and
- (b) Be in the name the affiant used in signing the petition;
- (c) State the affiant's residential address, giving street and number, if any, his or her date of birth and enrollment number; and
- (d) Affirm the affiant's intention to withdraw his or her signature from the petition.

20.19 Repeal of Prior Ordinances. All Tribal resolutions, ordinances, statutory and code provisions formerly enacted and all Tribal Election Board appointments regarding the subject matter of Elections are hereby repealed and extinguished. The provisions of this Election Ordinance supersede all such formerly enacted sections. This Election Ordinance is effective upon adoption of this Ordinance by the Tribal Council.

20.20 Confidentiality.

Except as may be expressly permitted herein, the Board Appeals Board, Election Judge and Court System, and any employee of such entities shall, at all times, maintain the confidentiality of information provided by candidates and registered voters to the Tribe under this Ordinance. Upon written request by a qualified candidate for Tribal Council, the Board may release a list of registered voters names and addresses for the purpose of candidate campaign mailings. It shall be unlawful and a candidate shall be disqualified from the Election, if the candidate uses the voter registration list for any purpose other than campaigning.

20.21 Severability. The provisions of this Election Ordinance shall be severable and if any phrase, clause, sentence or provision of this Election Ordinance is found to be contrary to the Constitution, or declared to be in violation of applicable federal law, or is held to be invalid, the validity of the remainder of this Election Ordinance shall not be affected and shall remain in full force and effect.

CERTIFICATION

The foregoing Ordinance was adopted by a vote of 6 for, and 1 against and 0 abstentions and 1 absent, at a duly called meeting of the Tribal Council, at which a quorum was present, on this 7th day of August, 2002.

/s/	8/7/02
Dale A. Miller, Tribal Council Chairman	Date of Approval

ATTEST:

/s/	8/7/02
Donna Crook, Tribal Council Secretary	Date of Approval